TL4294

**U.S. Department of State**

**Indonesia Report on Human Rights Practices for 1997**

**Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.**

INDONESIA

Despite a surface adherence to democratic forms, the Indonesian political system remains strongly authoritarian. The Government is dominated by an elite comprising President Soeharto (now in his sixth 5-year term), his close associates, and the military. The Government requires allegiance to a state ideology known as "Pancasila," which stresses consultation and consensus, but is also used to limit dissent, to enforce social and political cohesion, and to restrict the development of opposition elements. The judiciary is effectively subordinated to the executive and the military and suffers from corruption.

The primary mission of the 450,000-member armed forces, which includes 175,000 police, is maintenance of internal security and stability. Despite a decrease in the number of active or retired military officers in key government positions, the military retained substantial nonmiltary powers under a "dual function" concept that accords it a political and social role in "developing the nation." The military and the police continued to commit numerous human rights abuses.

The currency crisis that hit the region in the middle of the year slowed the expansion of the economy which had been vigorous and rapid in past years. The benefits of economic development are widely dispersed and living standards have risen significantly, but a large segment of the population remains poor. Pervasive corruption remains a problem. Sporadic unrest led to stronger demands that the Government act more effectively to address social and economic inequities. In rural areas, discontent often focused on the grievances of small land owners--especially those forced off their land by powerful economic and military interests. In some regions, exploitation of natural resources has entailed significant environmental degradation with adverse social consequences.

The Government continued to commit serious human rights abuses. Rising pressures for change from political activists and opponents met tough government reactions prior to the May general election. The Government demonstrated that it would not tolerate challenges to the fundamental elements of the political system by arresting and placing on trial some of its critics. The authorities maintained their tight grip on the political process, and in the May parliamentary election, as in the previous five held since 1971, denied citizens the ability to change their government democratically. The structure of the political system continued to ensure victory for the ruling GOLKAR party, which secured its biggest win ever. The Government did not permit the ousted Indonesian Democratic Party (PDI) leader Megawati Sukarnoputri and her supporters to run in the general election or to make common cause with the Muslim-oriented United Development Party (PPP). The election and campaign were marred by credible allegations of fraud as well as by sporadic, yet significant, violence between parties, including the government-sponsored GOLKAR organization. Security forces continued extrajudicial killings, including of unarmed civilians, disappearances, torture and mistreatment of detainees, and arbitrary arrests and detention. In practice legal protections against torture are inadequate. Prison conditions remained harsh. The judiciary is pervaded by corruption, and remains subordinated to the executive branch, which uses the courts to prosecute government critics and political opponents. Most courts refused to hear the lawsuits filed throughout Indonesia by Megawati Sukarnoputri and her supporters protesting her ouster as PDI leader, although a few at a preliminary level accepted the case and ruled in her favor. Security forces regularly violated citizens' right to privacy.

The Government continued to impose serious limitations on freedom of speech and restrict press freedom, although at year's end government critics were speaking out more boldly. The Government exercises indirect control over the press and uses intimidation to suppress hostile commentary and encourages self-censorship. Mild criticism of the Government was tolerated, but critics of the President, senior officials, or powerful local interests risked harassment or arrest. Despite these problems, the print media provided wide coverage of political issues and reports of human rights violations. Fourteen young activists belonging to, or associated with, the small, unauthorized, People's Democratic Party (PRD) were convicted of subversion based mostly on their writings, speeches, and organizational activities. Independent labor leader Muchtar Pakpahan faced subversion charges based mainly on expression of his political views but also including his labor activities. Former parliamentarian Sri Bintang Pamungkas was brought to trial in December under the Antisubversion Law for the political views and actions of his unrecognized Indonesian Democratic Union Party (PUDI). Parliamentarian Aberson Marle Sihalolo was sentenced to 9 months in prison for allegedly insulting the President and military in remarks made at a "free speech forum" in July 1996 at the former PDI headquarters. An assistant to the author of a book banned

by the Government was brought to trial for his role in its publication.

The Government continued to impose serious limitations on freedom of assembly and association. It prevented or broke-up meetings of nongovernmental organizations (NGO's) and labor unions, as well as peaceful demonstrations, sometimes violently. It brought to trial a Catholic priest and his brother for protecting political activists who in 1996 had been sought by the police. However, there were notable examples of well-publicized meetings, seminars, and gatherings on sensitive subjects, as well as public demonstrations, that were not stopped. Security forces generally refrained from using force to stop the prohibited, massive street rallies that dominated the election campaign and in most cases did not use lethal force in responding to major riots. On occasion security forces were criticized for not acting in time to protect citizens and property from the large-scale destruction that occurred. The rioting resulted from a combination of economic, communal, ethnic, religious and political factors. It began in 1996, continued into 1997, abated after the May general election, and erupted again in Ujung Pandang, South Sulawesi in September. Despite their reduced use of lethal force, security forces often reacted harshly to peaceful demonstrations or in disputes with citizens.

The Government legally provides for religious freedom for five accepted religions; unrecognized religions are subject to restrictions. The Government did not fully investigate or resolve many cases of attacks on religious facilities and churches during riots, although it issued several public appeals for religious tolerance. The Government continued to restrict freedom of movement. Discrimination against women, the disabled, and ethnic minorities, and violence against women are endemic problems.

The Government maintained its opposition to alternatives to the Government-sponsored labor movement and to the development of a free trade union movement, but permitted a very open debate over a new basic labor law. Members of the principal unauthorized labor organization cited continued instances of harassment, and security authorities shut down the organization's planned 3-day congress in September on the first day. The Government urged employers to pay on time the increased minimum wage and mandated benefits, and implemented a new audit system for worker safety and health. However, enforcement of labor standards remained weak. The Government and the International Labor Organization (ILO) signed a new memorandum of understanding on child labor to promote the protection of working children and to move progressively toward elimination of child labor. However, millions of children still work, often under poor conditions, and are thus unable to attend school. Some children forced to work under conditions of bonded labor reportedly suffer abuse.

There were some potentially positive developments. For example, the Independent Election Monitoring Committee (KIPP) carried out limited, yet significant, monitoring activities during the campaign and the parliamentary election. Although the Government refused to recognize the KIPP and restricted its activities, the organization gathered information about election violations and presented it to the public. The National Commission on Human Rights, despite limited resources and occasional government pressure, undertook investigations and publicized its independent findings and recommendations, but lacked enforcement powers. The Government ignored or responded slowly to some Commission findings. The increase in private human rights monitoring in East Timor was a positive development, and the Government took some actions in response to criticism of its human rights performance; for example, a human rights and international law training seminar was conducted for the military by the International Committee of the Red Cross (ICRC).

In East Timor, following massive December 1996 demonstrations in support of Nobel Peace Prize recipient Bishop Belo, in which security personnel suffered injuries and an out-of-uniform police officer was killed, an early 1997 campaign of harassment and detention by the security forces raised tension to a high level. During the May election period and its aftermath, East Timor's low-level insurgency intensified with guerrilla attacks that inflicted the highest number of deaths in years on security personnel and civilians. These attacks were followed by the capture and death of a prominent guerrilla commander and widespread detentions, accompanied by reports of killings, disappearances, torture, and excessive use of force on the part of the authorities. These developments exacerbated longstanding resentments on the part of the indigenous population. In November at least five students were injured when a large number of security force personnel entered the University of East Timor campus firing their weapons. One political prisoner was released when he became eligible for parole. No significant progress was made in accounting for persons missing following the 1991 Dili incident or others who disappeared in recent years. Troop levels remained unjustifiably high. The Government granted limited access to the area to foreign journalists but banned travel by all foreign human rights NGO's except the ICRC. The Dili branch of the National Commission on Human Rights, which opened in 1996, remained ineffective, but increased efforts by the Catholic Church and others, along with a better understanding of international humanitarian norms among senior military officers, improved the overall quality of human rights monitoring in East Timor. There were no reports of military personnel who committed abuses in East Timor being punished. Seeking asylum or publicity for their cause, young East Timorese mounted further intrusions into various embassies in Jakarta.

In Irian Jaya, resentment among indigenous groups against government and private companies' policies that they viewed as heavyhanded and arbitrary remained. Real and perceived discrimination against native Irianese persisted. A clash between indigenous people and security forces occurred in the Timika-Tembagapura area, the location of a foreign mining company, and resulted in several deaths. The company began moving forward on its plan to distribute a percentage of its profits to indigenous groups in the area as part of a regional development effort, but suspended disbursements for new projects under this initiative in August because of disputes over how the funds should be allocated. The Government's closure of certain areas of the central highlands continued during 1997, due to the military's special operations against an indigenous separatist group that had taken and executed hostages in 1996. There were reports that in the restricted areas the military had forced villagers to perform uncompensated labor, that huts had been burned in one village, and that in late 1996 there were instances of beatings and other abuse. The military denied such reports and blamed abuse on the separatist group.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

Historically, politically related extrajudicial killings have occurred most frequently in areas where separatist movements were active, such as East Timor, Aceh, and Irian Jaya. Security forces continued to employ harsh measures against separatist movements in all three areas. There were also numerous instances of reported extrajudicial killings by security forces in cases involving alleged common criminal activity.

Credible sources confirmed several deaths in detention in East Timor during the year. In June an individual known as "Januario" was detained in Baucau, severely beaten, and died while being transported to Dili. Human rights monitors believed that a number of other killings by security forces of civilians may have occurred, especially in more isolated areas, but these were impossible to confirm. There were also credible reports that detainees in East Timor were shot to death while allegedly attempting to escape.

There were credible reports of deaths in, or related to, detention in other parts of the country as well. In March Teguh Sunarto (Atok) died in East Java not long after his release from police detention. He and two others were detained on March 17 by police because they were not in possession of identity cards. Two police officers reportedly subjected all three detainees to severe mistreatment, including punching, kicking, and cigarette burns. In addition, the police reportedly ordered other prisoners to beat Sunarto and the other two detainees. The two police officers involved were detained. In April a farmer in central Lampung, Sukirno, died in police custody. According to a credible report, 10 police and forestry service officers took him from his home on the night of April 14, accusing him of possessing a homemade gun and poaching from a protected forest. Two days later Sukirno's family was informed that he committed suicide while in police custody. However, numerous wounds and bruises were reportedly found on Sukirno's body.

Security forces shot and killed two Irianese in Timika on August 22 in an altercation in which the Irianese reportedly pelted the security forces with arrows and rocks, injuring at least two. The security forces claimed that they used rubber bullets. Some sources said that the security forces acted in self defense, while others said that the security forces fired first. The incident was sparked by the earlier unexplained deaths of two Irianese on the property of a foreign mining concession near a military checkpoint.

The police often employed deadly force in apprehending suspects or coping with alleged criminals, many of whom were unarmed. In response to protests that the methods used were unjustifiably harsh and amounted to execution without trial, police generally claimed that the suspects were fleeing, resisting arrest, or threatening the police.

Complete statistics about the number of these cases have not been released. However, press reports, including statements of police officials, show a pattern of increased lethal shootings by the police of criminal suspects, many of whom were unarmed. At least seven crime suspects were reportedly shot and killed by police in Jakarta in January, and the number reportedly climbed to 32 by April. It was reported that 28 had been similarly shot by the police in Surabaya during the same time period. In May a Jakarta police spokesman announced that 63 shootings by police had occurred between January and April; approximately 85 percent were fatal. The trend of police shootings of suspected criminals continued in the following months, with usually reliable press reports noting about 90 such deaths in Jakarta during the year.

In the past, higher authorities rarely punished the military or police for using excessive force. There were some indications that this situation was improving, although the action taken by the authorities usually was not commensurate with the

gravity of the abuses. A military tribunal on July 23 sentenced the former chief of the Bogor detective unit to 9 months in prison. The detective was involved in the torture of a suspect, Tjetje Tadjudin, who died in police custody in October 1996. The court heard testimony that Tjetje had been subjected to electric shocks and beatings during police interrogation. The police detective and two assistants were charged with mistreating Tjetje and thereby causing his death and misuse of authority. The prosecutor requested a 17-month sentence for these crimes, but the detective was sentenced to 9 months and 10 days because he was found guilty only of "misuse of authority." Nobody has yet been held responsible for Tjetje's death and the convicted police detective was not removed from the police force pending appeal.

Five cases of alleged human rights violations in Irian Jaya involving the death of Irianese civilians, cited in a September 1995 report by the National Human Rights Commission, have languished, and the Commission has requested followup action.

In September police announced a "temporary postponement" in the investigation into the 1993 murder of labor activist Marsinah. Human rights activists interpreted this as an effort to close the investigation, and have called for its revival.

The military suffered its highest number of fatal casualties in recent years in East Timor, most in a wave of guerrilla attacks during the May election period and its aftermath. Eighteen security personnel were killed in a single attack near Baucau in May. In addition to numerous killings of soldiers and police by the guerrillas, they also killed civilian East Timorese suspected of working for military intelligence and some other civilians. A school teacher and members of his family were killed by guerrillas during the pre-election period. A local government official in East Timor, who was also chief of the local paramilitary "gada paksi" group, and four other civilians were killed in April when their car was attacked near Viqueque, presumably by guerrillas.

The security situation in Aceh has improved since the early 1990's campaign against the Acehnese separatist movement. Although Aceh Merdeka was believed to have been largely eliminated as a viable force, Aceh is still officially listed as one of Indonesia's three "troubled areas" (along with East Timor and Irian Jaya). Because the area had been relatively peaceful for several years, there was discussion in January of declaring Aceh secure and removing the classification of troubled area as a reflection of confidence in the security situation. The discussion was suspended after military operations netted weapons caches, allegedly belonging to Aceh Merdeka, in February and March, following a violent bank robbery during which three bank employees were shot and killed by the criminals.

b. Disappearance

Reliable sources in East Timor reported numerous disappearances, especially in more isolated areas.

The Government made little progress in resolving the 1996 "July 27 incident." The incident involved the Government-backed violent takeover of Indonesian Democratic Party (PDI) headquarters, which triggered serious rioting in Jakarta. The Government moved slowly in responding to the Human Rights Commission's October 1996 report on this incident, which listed 23 missing, 149 injured, and 5 dead, one of whom had been shot (see Section 4). In September the authorities reportedly acknowledged that the case had not been closed and agreed that a search would be conducted for the 16 people that the Commission reported were still missing, but little additional progress had been made by year's end.

There were no significant efforts by the Government to account for the missing and dead from the November 12, 1991 military shooting of civilians in Dili. No additional cases were resolved during the year. Knowledgeable observers continued to believe that most of the missing are dead and that members of the armed forces know where their bodies are located.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Criminal Code makes it a crime punishable by up to 4 years in prison for any official to use violence or force to elicit a confession. In practice, however, legal protections are both inadequate and widely ignored, and security forces continued to employ torture and other forms of mistreatment, particularly in regions where there were active security concerns, such as Irian Jaya and East Timor. Police often resort to physical abuse, even in minor incidents.

In East Timor, military units regularly detain civilians for interrogation; most are held in extralegal military detention centers, often with no notification of relatives, mistreated for several days, and then released. Family members and human rights monitoring organizations encounter serious difficulties in identifying and visiting detainees held in these military facilities. Many credible sources agreed that persons detained by the police in East Timor were routinely beaten while in the process of being detained. All 32 people detained following a demonstration at the Makhota Hotel in Dili in March

suffered beatings at the hands of the police, according to credible sources.

Four residents of Lavateri village near Baucau, East Timor detained on April 4 by an intelligence team, were reportedly beaten with rifle butts, with one individual suffering a broken rib and another having a cross carved into the palm of her hand. Six East Timorese detained by the Joint Intelligence Unit (SGI) in Liquica on February 26 were reportedly tortured with electric shocks and immersion in ice water. Five East Timorese civilians detained by security forces near Liquica on April 30 were reportedly beaten with rifle butts and suffered electric shocks.

During the military operation and search for the criminals that followed, at least two suspects, alleged by the military to be from Aceh Merdeka, were shot to death by the military during raids. A military source claimed that the victims were armed. During a roundup of suspected Aceh Merdeka separatists, an unknown number of suspects were arrested during February and March. There are credible reports that a small number of Aceh Merdeka members remain in Aceh, and maintain some sympathy among the local population, but they are not seen as posing an active security threat. There are allegations of criminal and abusive behavior by military personnel in regions of Aceh that were formerly areas where Aceh Merdeka separatists operated.

There were instances where security forces responded with brutality to peaceful demonstrations or disputes with citizens, although they generally refrained from using force to stop the prohibited, massive street rallies that dominated the election campaign. On April 2, security forces violently broke up a peaceful demonstration by approximately 200 supporters of Megawati Sukarnoputri in Denpasar, Bali. The security forces used rattan canes, and dozens among the group suffered minor injuries. In Yogyakarta, security forces reportedly beat some student marchers commemorating Human Rights Day and broke up their march. In southeast Sulawesi, police reportedly showed restraint in responding to student riots provoked by a police assault on students during a raid on a dormitory.

On April 28, uniformed and plainclothes security forces beat with rattan canes and kicked a small group of peaceful demonstrators outside the central Jakarta District Court following the sentencing of People's Democratic Party (PRD) activists, injuring two demonstrators. On June 23, security forces armed with bayonets and clubs entered the Indonesian Christian University (UKI) campus in Jakarta and attacked a group of students. At least five of the students were injured and three were hospitalized with serious head wounds. The security forces were retaliating after a soldier was injured in an altercation with students. On September 1, according to reliable reports, 27 students and local residents in Banda Aceh were injured, some seriously, when three truckloads of police officers attacked a group of students after a soccer match during which a dispute between a police officer and a student over a poster had arisen. Police allegedly beat students and bystanders on the soccer field and chased those who ran away into homes and beat them.

The Government's handling of the wave of major riots that hit Indonesia received a mixed response. Security forces did not, in most cases, use lethal force in responding to these riots and showed relative restraint. In many cases, there was public criticism that security forces did not act in sufficient time or with sufficient force to protect citizens and property from the large-scale destruction that occurred. The rioting resulted from a combination of economic, communal, ethnic, religious, and political factors. It began in 1996, continued into 1997, abated after the May general election, and erupted again in Ujung Pandang, South Sulawesi in September.

On January 30, security forces restored order in Rengasdengklok, West Java without resort to live ammunition fire or brutal treatment of civilians, though not before mobs had attacked shops and religious institutions. The most deadly riot occurred in Banjarmasin, South Kalimantan on May 23 on the last day of the election campaign. At least 123 people died in a fire caused by the riot and ensuing looting of a department store. The National Commission on Human Rights investigated, and concluded that there was no evidence of the use of live ammunition to subdue the rioters. The Commission also found that some of the suspected rioters were beaten after their arrest, and recommended measures to ensure that future riot control not be excessively violent.

In November following an apparent altercation between youths and intelligence personnel near the University of East Timor, large numbers of security force personnel entered the university campus, discharging their weapons and beating students. At least five students were injured and university facilities were severely damaged. Authorities said that security forces had used only rubber bullets but several of the injured students were reportedly shot, and two suffered bayonet wounds, according to independent human rights organizations. One injured student was removed from an ICRC vehicle, beaten with rifle butts by police, and then taken to a military hospital. The ICRC was permitted to visit the wounded students. A number of students were also reportedly detained following the incident.

There were reports that the security forces beat and abused villagers in the central highlands of Irian Jaya; the military denied committing such abuses (see Section 2.d.).

The Government continued to maintain an unjustifiably high military presence in East Timor, totaling more than 16,000 personnel. The Government, as it does elsewhere, also relied on bands of youths, organized and directed by the military, to intimidate and harass its opponents. Such a civilian paramilitary group, known as the gada paksi, was frequently involved in nighttime raids in Dili neighborhoods in the early part of the year and was widely blamed for provoking serious disturbances in Viqueque in February. Gada paksi activity abated in the latter half of the year.

One case of alleged rape of East Timorese women by military personnel gained public attention as human rights lawyers tried to bring the case to trial. Legal action also is being pursued in the case of an East Timorese woman allegedly the victim of repeated rapes by military personnel in November 1996 while in military custody. The woman reported the rapes to human rights monitors, and wrote a letter to the local military command unit, which forwarded it to the National Commission on Human Rights. At year's end, it was not clear whether lawyers would succeed in getting the case tried in either military or civil court.

Human rights organizations report that rape by military personnel is a serious problem, and that soldiers are rarely held accountable for these crimes.

The four police officers who mistreated religious teachers in Tasikmalaya, West Java, in a 1996 event which sparked a major riot there, were found guilty by a military tribunal and given sentences ranging from 22 to 28 months.

Prison conditions are harsh with violence among prisoners and mistreatment and extortion of inmates by guards common. The incidence of mistreatment drops sharply once a prisoner has been transferred from police or military intelligence (BIA) custody into the civilian prison system or into the custody of the Attorney General. Political prisoners were sometimes mixed with the general prison population. In the Cipinang and Salemba prisons in Jakarta some political prisoners were segregated.

The ICRC was denied access to political prisoners until July, except in East Timor where visits were generally allowed. Special arrangements for visiting dignitaries to visit some prominent political prisoners were sometimes made. Some nonpolitical prisoners also have been visited by human rights monitors, although this appears to be on a case-to-case basis.

d. Arbitrary Arrest, Detention, or Exile

The Criminal Procedures Code contains provisions against arbitrary arrest and detention, but it lacks adequate enforcement mechanisms and authorities routinely violate it. The Code specifies that prisoners have the right to notify their families and that warrants must be produced during an arrest except under specified conditions, such as when a suspect is caught in the act of committing a crime. The law also requires that families of detainees be notified promptly. The law authorizes investigators to issue warrants to assist in their investigations or if sufficient evidence exists that a crime has been committed. However, authorities sometimes made arrests without warrants.

The law presumes defendants innocent and permits bail. They or their families may also challenge the legality of their arrest and detention in a pretrial hearing and may sue for compensation if wrongfully detained. However, it is virtually impossible for detainees to invoke this procedure, or to receive compensation, after being released without charge. In both military and civilian courts, appeals based on claims of improper arrest and detention are rarely, if ever, accepted. The Criminal Procedures Code also contains specific limits on periods of pretrial detention and specifies when the courts must approve extensions, usually after 60 days. In addition, suspects charged under the 1963 Antisubversion Law are subject to special procedures outside the Code. These give the Attorney General the authority to hold a suspect for up to 1 year before trial. He may renew this 1-year period without limit.

The authorities routinely approve extensions of periods of detention. In areas where active guerrilla movements exist, such as East Timor and Irian Jaya, there are many instances of people being detained without warrants, charges, or court proceedings. This is also true in Aceh. Bail is rarely granted, especially in political cases. Over 100 people were detained following the discovery of weapons caches in various regions of Aceh, beginning in February. They allegedly were held incommunicado at military camps. The authorities frequently prevent access to defense counsel while suspects are being investigated and make it difficult or impossible for detainees to get legal assistance from voluntary legal defense organizations. Special laws on corruption, economic crimes, and narcotics do not come under the Criminal Code's protections.

The Agency for Coordination of Assistance for the Consolidation of National Security (BAKORSTANAS) operates

outside the legal code and has wide discretion to detain and interrogate persons thought to threaten national security. Despite the existence of this agency, the military began discussing publicly in 1996 the need for a new internal security act to give the Government greater power to suppress dissent. Although there was further public discussion of this proposal during 1997, it had not been sent to Parliament.

Security forces broke up demonstrations and meetings and detained participants (see Sections 1.c. and 2.b.).

There are no reliable data on the number of arbitrary arrests or detentions without trial, particularly in East Timor, Irian Jaya, and Aceh. In East Timor, partially as a result of increased demonstrations in late 1996 and in 1997, as well as increased guerrilla activity, the number of detentions during 1997 was higher than in previous years.

Arbitrary detentions in East Timor were a particular problem following increased guerrilla attacks in Baucau and Los Palos. According to credible sources, numerous people not involved in the separatist movement were detained and mistreated as security forces swept through local neighborhoods in search of the perpetrators of various attacks. In the early part of the year the civilian paramilitary gada paksi group also frequently detained and beat civilians.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution stipulates the independence of the judiciary, but in practice the judiciary is subordinated to the executive and the military. Court challenges in various jurisdictions to the Government's transparent manipulation of the PDI leadership structure in 1996, with a few exceptions, continued to be dismissed in 1997. Judges are civil servants employed by the executive branch, which controls their assignments, pay, and promotion. Low salaries encourage widespread corruption. Judges are subject to considerable pressure from governmental authorities that often determines the outcome of a case.

A quadripartite judiciary of general, religious, military, and administrative courts exists below the Supreme Court. The right of appeal from district court to high court to Supreme Court exists in all four systems. The Supreme Court does not consider factual aspects of a case, only the lower courts' application of law. The Supreme Court theoretically stands coequal with the executive and legislative branches, but it does not have the right of judicial review over laws passed by Parliament. The Supreme Court has not yet exercised its authority (held since 1985) to review ministerial decrees and regulations. In 1993 Chief Justice Purwoto Gandasubrata laid out procedures for limited judicial review.

A panel of judges conducts trials at the district court level, poses questions, hears evidence, decides guilt or innocence, and assesses punishment. Initial judgments are rarely reversed in the appeals process, although sentences can be increased or reduced. Both the defense and the prosecution may appeal.

Defendants have the right to confront witnesses and to produce witnesses in their defense. An exception is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court. In such cases, sworn affidavits may be introduced. However, the Criminal Procedures Code does not provide for witnesses' immunity or for defense power of subpoena. As a result, witnesses are generally unwilling to testify against the authorities. The courts commonly allow forced confessions and limit the presentation of defense evidence. In a trial in March a witness stated in open court that he had been tortured with electric shock in the course of interrogation in 1996 by military intelligence (BIA). No investigation of his charge, given under oath, was launched. Defendants do not have the right to remain silent and can be compelled to testify against themselves. The Criminal Procedures Code gives defendants the right to an attorney from the moment of their arrest, but not during the prearrest investigation period, which may involve prolonged detention. Persons summoned to appear as witnesses in investigations do not have the right to be assisted by lawyers even though information developed in the course of rendering testimony can subsequently become the basis of an investigation of the witness. The law requires that a lawyer be appointed in capital cases and those involving a prison sentence of 15 years or more. In cases involving potential sentences of 5 years or more, a lawyer must be appointed if the defendant desires an attorney and is indigent. In theory, destitute defendants may obtain private legal help, such as that provided by the Indonesian Legal Aid Foundation. In practice, however, defendants are often persuaded not to hire an attorney, or access to an attorney of their choice is impeded.

In many cases procedural protections, including those against coerced confessions, particularly those coerced by the police and military intelligence (BIA), are inadequate to ensure a fair trial. Corruption is a common feature of the legal system and the payment of bribes can influence prosecution, conviction, and sentencing in civil and criminal cases.

There were few signs of judicial independence. The court continued to be used to take action against political activists and government critics. The Government vigorously pursued the numerous subversion cases started at the end of 1996, and initiated or threatened new cases. Many independent observers interpreted this as an effort to chill dissent in advance of the May general election. The Government prosecuted and the court convicted 14 young activists belonging to or associated with the People's Democratic Party (PRD) under the Antisubversion Law in April and June, handing down the harshest sentences for peaceful political dissent in recent years (see Section 2.a.). The Government also tried independent labor leader Muchtar Pakpahan, and former parliamentarian Sri Bintang Pamungkas under this law. Four youths charged with inciting the rioting that took place in Tasikmalaya, West Java in December 1996 were brought to trial in 1997 on charges of subversion. The trials concluded in November and December, resulting in sentences of 22 months, 24 months, 8 years, and 10 years in prison. Megawati Sukarnoputri filed suit in courts throughout the country to challenge the legality of the June 1996 government-supported Medan congress that ousted her from the PDI leadership. Most courts refused to hear the case. However, several courts accepted the case and ruled in her favor.

The Antisubversion Law, which carries a maximum penalty of death (which has not been invoked in recent years), makes it a crime to engage in acts that could distort, undermine, or deviate from the state ideology or broad outlines of state policy, or which could disseminate feelings of hostility or arouse hostility, disturbances, or anxiety among the population. The excessively vague language of this law makes it possible to prosecute people merely for peaceful expression of views contrary to those of the Government.

Many prisoners are serving sentences for subversion, including members of the banned Communist Party of Indonesia (PKI), Muslim militants, and those convicted of subversion in Irian Jaya, Aceh, and East Timor. More are serving sentences under the Hate-Sowing or Sedition laws. Some of these persons advocated or employed violence, but others are political prisoners who were convicted for attempting to exercise such universally recognized human rights as freedom of speech or association, or who were convicted in unfair trials. Juvencio de Jesus Martins, an East Timorese prisoner, was released under normal remission procedures on Indonesian Independence Day, August 17.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

Judicial warrants for searches are required except for cases involving suspected subversion, economic crimes, and corruption. However, security agencies regularly made forced or surreptitious entries. Security forces also engaged in surveillance of persons and residences and selective monitoring of local and international telephone calls without legal restraint.

Government security officials monitor the movements and activities of former members of the PKI and its front organizations, especially persons the Government believes were involved in the abortive 1965 coup. These persons and their relatives sometimes are subjected to surveillance, required check-ins, periodic indoctrination, and restrictions on travel outside their city of residence. One of the methods the Government has used to monitor the activities of these people has been to require that the initials "E.T." ("Ex-Tapol" or political prisoner) be stamped in their identification cards. This allows the Government and prospective employers to identify former PKI members, and subjects them to official and unofficial discrimination. Although the requirement that E.T. be stamped in identification cards has been officially ended, in practice it is still used in many cases.

After several years during which the Government significantly reduced its transmigration program, the program was revived during the year with private corporate support. The program moves large numbers of people from overpopulated islands to more isolated and less developed ones. It is also used to resettle local populations within East Timor and Irian Jaya. Human rights monitors say that the program violates the rights of indigenous people and dupes some transmigrants into leaving their home villages without any means of return. Conditions at some sites are life threatening, with inadequate measures to protect the transmigrant population against diseases endemic to the transmigration sites. Transmigrants and migrants outside the Government transmigration program received indirect government support in the form of developmental assistance programs and contracts with the armed forces (ABRI) or local government officials. This practice, particularly in East Timor, Irian Jaya and Kalimantan, led to resentment among indigenous populations, which believed that their rights were infringed upon (see Section 5).

There were reports that security forces occupied villages in the central highlands of Irian Jaya and destroyed homes and crops. The military denied committing abuses (see Section 2.d.).

The Government prohibits the import of Chinese-language publications (see Section 5).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Although the 1945 Constitution and the 1982 Press Law provide for freedom of the press, the Government continued to restrict press freedom in practice. The Government uses the issuance of publishing licenses under a 1984 ministerial decree to control the press. Other means of control include regulation of the amount of advertising permitted and of the number of pages allowed in newspapers. In sensitive areas, the authorities continued to provide guidance to local journalists and editors on what they should print, although there were many cases in which such guidance was ignored. Self-censorship by the press continued, especially on subjects known to be sensitive to the Government. At year's end, criticism of the Government grew stronger and the press carried it more openly.

Coverage of a number of sensitive topics, such as corruption, the role of the first family in business, and lack of government fiscal accountability, did occur, particularly in the English-language press. Major Indonesian-language newspapers were more cautious. The broadcast media, which reaches a far larger proportion of the population than does the print media, rarely if ever deals with sensitive topics.

Media coverage of the January-February ethnic fighting between Christian Dayak and Muslim Madurese in West Kalimantan was at times extremely restricted. The military held a closed meeting with senior editors early in February in the midst of the ethnic strife. Few local newspaper reports about the situation in West Kalimantan appeared until the fighting was well underway. Other instances of social unrest, such as in Rengasdengklok, West Java on January 30, and instances related to the election campaign, received more media coverage.

Throughout most of the year, limited debate on political and social issues was permitted in the press and other public forums, but the Government continued to impose restrictions on free speech, especially in cases involving direct opposition to the existing system. At year's end, public criticism of the Government grew stronger and the press carried it more openly. In the aftermath of the July 27, 1996 incident, and in the period prior to the May general election, the Government demonstrated that it would not tolerate challenges to the fundamental underpinnings of the political system, in particular by arresting, placing on trial, and harshly sentencing some of its critics.

Fourteen activists belonging to, or associated with, the small, opposition People's Democratic Party (PRD) were convicted under the controversial 1963 Antisubversion Law. On April 28, the day after the general election campaign began, courts in Jakarta convicted nine of the activists. Although the young activists originally were arrested in August 1996 amidst government accusations of masterminding the "July 27" incident, the convictions rested instead on writings, speeches, and organizational activities, which were deemed subversive (see Section 1.e.).

The PRD's leader, Budiman Sudjatmiko, received a 13-year sentence, which was increased to 15 years on appeal. This was one of the most severe sentences imposed in a subversion case in recent years. His associates received sentences ranging from 12 years to 18 months. Two more PRD activists were convicted in Jakarta on June 16, and given 4- and 5-year sentences. Other PRD-related cases included the convictions in Surabaya of Dita Indah Sari and two others for subversion on April 22 and April 23 based on their political views and organizational activities, which included calling for an end to the military doctrine of dual function and organizing labor strikes.

Independent labor leader Muchtar Pakpahan's subversion trial, which began on December 12, 1996, continued in the early part of the year, and was interrupted due to his serious health problems. It resumed in September. As with the young PRD activists, the subversion charges rested on his criticism of the Government, rather than his purported role in the July 27, 1996 violence, as had originally been publicly claimed by the Government (see Section 6.a.).

The subversion trial of Sri Bintang Pamungkas, the former United Development Party (PPP) legislator, began on December 22. According to the prosecution, he was charged under the 1963 Antisubversion Law because he formed the Indonesian Democratic Union Party (PUDI), issued a PUDI manifesto, named himself a candidate for president, and sent out holiday (Idul Fitri) cards in January carrying the PUDI's agenda. The PUDI's program included rejection of the 1997 election, rejection of another Soeharto presidential candidacy, and a call to prepare for the post-Soeharto era. Bintang was detained on March 6, along with the PUDI's deputy chairman Julius Usman and secretary general Saleh Abdullah, by the Attorney General's Office in accordance with the Antisubversion Law. His colleagues were released from detention on April 3.

Aberson Marle Sihaloho, a parliamentarian from the Indonesian Democratic Party (PDI) and a supporter of ousted PDI leader Megawati Sukarnoputri, was convicted on July 21 for allegedly insulting the President, armed forces, and other public institutions. He received a 9-month prison sentence. The basis of his conviction was a speech he made in July 1996

at the "free speech forum" in front of the PDI headquarters, which had been videotaped by the Government. He became the first parliamentarian in recent years to face trial and be convicted.

The Government took similar harsh action against some individuals who published magazines or books that challenged the system. Andi Syaputra was sentenced on April 7 to 30 months in prison for printing and distributing printed material allegedly defaming President Soeharto. On March 4, the Government banned a 22-page pamphlet written by Soebadio Sastrosatomo, one of the leaders of the long-outlawed Indonesian Socialist Party (PSI). The Government then brought Soebadio's private secretary to trial August 5 on charges of having "insulted" the President. His alleged crime was that he assisted in the production of the book. He was released from detention in September while his trial was still in progress.

An activist from the NGO Center for information and Action Network for Democratic Reform, Tri Agus Siswomihardjo, was released from prison March 10 after serving 24 months for disseminating materials allegedly defaming the President. Eko Mariyadi and Achmad Taufik, of the unrecognized Independent Journalists' Association (AJI), were released from prison on July 18. They had served 2 years and 4 months of their three-year sentences for allegedly slandering the President and spreading hatred against the Government. They were convicted based on articles they wrote for the underground journal Independen, and for publishing Independen without a government license.

The killing of a journalist who published critical reports in 1996, and at least one other similar case in 1997, attracted domestic and international attention. A trial was carried out in the 1996 killing in Yogyakarta of a journalist, Fuad Muhammad Syafrudin (Udin), who worked for the Yogyakarta daily newspaper Bernas. He had been attacked in his home, possibly in connection with articles he had written that were critical of the local government's actions in land cases. There was considerable controversy as to whether authorities had arrested the right suspect, as the victim's wife, an eyewitness to the crime, testified in court on September 2 that the defendant was not the one who killed her husband. The accused claimed that his confession was coerced by the authorities. Prosecutors finally dropped the case, and the defendant was released on November 27.

On July 26, a journalist for the Jakarta weekly magazine Sinar Pagi, Naimullah, was found dead in his car outside Pontianak, West Kalimantan. He reportedly had injuries to his neck, head, temples, chest, and wrists and four individuals were seen near his car. He had published reports on timber smuggling and theft that allegedly involved local officials. The Indonesian Journalists' Association called for an impartial police investigation. The police in West Kalimantan announced in August that the case was still being investigated. By year's end, it had not been resolved.

The electronic media remained more cautious in their coverage of the Government than the print media. The Government operates a nationwide television network with 12 regional stations. Private commercial television companies, most with ownership by, or management ties to, the President's family, continued to expand. All are required to broadcast government-produced news, but many also produce public affairs style programming with news content.

Over 600 private radio broadcasting companies exist in addition to the Government's national radio network. They all were required to belong to the government-sponsored Association of Private Radio Stations (PRSSNI) to receive a broadcasting license. The government radio station produces the program "National News," which is the only news permitted by law to be broadcast in Indonesia. It is relayed throughout the country by private stations and 53 regional affiliates of the government station. By law, the private radio stations may produce only "light" news, such as human interest stories, and may not discuss politics. In practice, however, many broadcast interviews and foreign news as well. Moreover, "talk radio" call-in programs increasingly touch on political and socio-economic issues.

Foreign television and radio broadcasts were readily accessible. Satellite dishes have proliferated throughout the country, and there was access to the Internet. The Government made no effort to restrict access to this programming, and has proclaimed an "open skies" policy. Foreign periodicals are widely available. Distribution is sometimes delayed by a day or more by authorities, although this is rare. The Government restricts the import of Chinese-language publications (see Section 5).

The Government closely regulates access to Indonesia, particularly to certain areas of the country, by visiting and resident foreign correspondents. It occasionally reminds the latter of its prerogative to deny requests for visa extensions. Special permission is necessary for foreign journalists to travel to East Timor, Aceh, and Irian Jaya. With a few exceptions, press access to East Timor was restricted. A number of journalists repeatedly requested permission to go to East Timor without success. The local press in Aceh is tightly controlled.

In November a foreign NGO worker was detained in Dili for participating in and photographing a peaceful, candlelight vigil. Authorities accused her of acting as a journalist without the proper visa. She was expelled to Bali, following 10 hours

of questioning by authorities.

The Government requires a permit for the importation of foreign publications and videotapes, which must be reviewed by government censors. Importers sometimes avoided foreign materials critical of the Government or dealing with topics considered sensitive, such as human rights. There is a significant amount of materials bypassing customs and censorship procedures.

Publishers sometimes refused to accept manuscripts dealing with controversial issues. Most books by the prominent novelist and former political prisoner, Pramoedya Ananta Toer, are banned, though some were in circulation. The Government in March banned a pamphlet which was written by a former leader of the long-banned Indonesian Socialist Party (PSI), Soebadio Sastrosatomo.

In December, police banned the performance of a play in Bandung, West Java based on the life of labor activist Marsinah, who was murdered in 1993, the play had been closed down earlier in Surabaya East Java on November 26, and was stopped in other cities as well. It was performed in Jakarta and some other venues.

While the law provides for academic freedom, constraints exist on the activities of scholars. Political activity and discussions at universities, while no longer formally banned, remained constrained. Some scholars displayed caution in producing or including in lectures and class discussions materials that might provoke government displeasure.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government places significant controls on the exercise of this right. The Government promulgated regulations in December 1995 that eliminated the permit requirements for some types of public meetings. A requirement to notify the police remained for most others, and in practice numerous public meetings continued to be prevented or broken up.

In an effort to control NGO's, unrecognized political groups, and some student organizations in the aftermath of the July 27, 1996 incident and in the period prior to the May general election and afterwards, the Government prevented or broke up numerous meetings, seminars, and other peaceful demonstrations, and public gatherings, although it allowed others to occur. In November 1996, high-level government officials made public threats to take legal action against selected NGO's deemed to be "trouble-making." Several of those groups, specifically the People's Democratic Party (PRD) and its affiliates were banned by the Government on September 29, and the authorities used close monitoring to intimidate other NGO's, which nonetheless continued to operate.

On March 13, the police in Jakarta broke up a seminar focused on the upcoming general election jointly sponsored by a student group, several NGO's, and the Independent Election Monitoring Committee. The groups said publicly that they had notified the police in accordance with relevant regulations, but the authorities still refused to allow the event to proceed.

On April 11, security forces in Medan, North Sumatra stopped an NGO seminar on advocacy training for agrarian affairs during its second day. The seminar had been scheduled to run for 5 days. In June a meeting bringing together NGO's in Banda Aceh was canceled by the authorities on the day it was to begin.

An evening discussion sponsored by student groups held the day before the anniversary of the 1996 "July 27 incident" was broken up and five students were interrogated.

Overview to Country Reports on Human Rights Practices for 1997

# INTRODUCTION TO THE 1997 HUMAN RIGHTS REPORT

(...)

**Indonesian authorities maintained their tight grip on the political process and controlled the May parliamentary elections. Security forces continued to be responsible for extrajudicial killings, disappearances, and torture. Restrictions on freedom of speech and association, as well as government influence over the judiciary, are exemplified by the trial of trade union organizer Muchtar Pakpahan, which still continues after 14 months.** Vietnam's human rights record, although somewhat improved, continued to be poor, with significant restrictions on freedom of speech, assembly, association, religion, and the right to privacy.

(...)